



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 7704-99

7 July 2000

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments  
(2) Case Summary  
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy filed enclosure (1) with this Board requesting a better characterization of service then the discharge under other than honorable conditions issued on 24 December 1996.

2. The Board, consisting of Mr. Rothlein, Mr. Pfeiffer and Mr. Whitener, reviewed Petitioner's allegations of error and injustice on 27 June 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that enclosure (1) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Navy on 3 May 1994 at age 20. She then served in an excellent manner for over two years. During this initial period of good service she was advanced in rate to OS3 (E-4). On 1 December 1996 she received nonjudicial punishment for an unauthorized absence of about 15 days and missing ship's movement. The punishment imposed was 30 days restriction and extra duty and a reduction in rate which was suspended for six months.

d. On 5 December 1996 Petitioner was notified of separation processing due to her failure of the physical readiness test

(PRT) and for commission of a serious offense as evidenced by the 1 December 1996 nonjudicial punishment. She elected to waive her right to have her case heard by an administrative discharge board. The commanding officer recommended discharge under other than honorable conditions stating, in part, as follows:

(her) attitude and productivity began declining after her second consecutive PRT failure. Her immature action after her third PRT failure and lack of concern for her shipmates .... do not warrant separation with a general discharge. Her continued presence is a negative influence on good order and discipline ...

On 18 December 1996 the discharge authority directed discharge for misconduct with a discharge under other than honorable conditions. She was so discharged on 24 December 1996.

e. Petitioner states, in effect, that extreme stress led to her period of unauthorized absence. The stress was caused by her supervisor who felt that she was faking an ankle sprain and was not otherwise making an effort to meet the PRT standards.

#### CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board is aware that missing ship's movement is a serious offense and a punitive discharge is authorized for that offense. However, the Board notes her initial period of good service as well as the fact that the command must have regarded the offense as being not too severe since she only received a nonjudicial punishment and was awarded a minimal punishment of restriction, extra duty and a reduction in rate which was suspended. Although the Board does not condone such misconduct, it concludes that, in retrospect, a discharge under other than honorable conditions was unduly severe and that it should now be recharacterized to general.

#### RECOMMENDATION:

- a. That Petitioner's naval record be corrected to show that on 24 December 1996 she was issued a general discharge by reason of misconduct vice the discharge under other than honorable conditions actually issued on that date.
- b. That this Report of Proceedings be filed in Petitioner's naval record.
- c. That the Department of Veterans Affairs be informed upon request that Petitioner's application was received by the Board

on 10 November 1999.

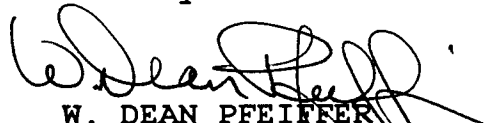
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN  
Recorder



ALAN E. GOLDSMITH  
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER  
Executive Director